

**EMPLOYMENT ADVISORY COUNCIL MEETING
DRAFT MINUTES**

DATE AND TIME: Wednesday, February 09, 2011
12 noon

PLACE: Department of Workforce Services
140 E 300 S
Room 211A
Salt Lake City, UT

MEMBERS PRESENT: John Chindlund
Greg Diven (by phone)
James Judd
Richard Kingery
Dave Davis
Dan Peay
Dee Rowland
Thomas Bingham
Chyleen Arbon

MEMBERS EXCUSED: Rich Thorn
Raylene Ireland
Tony Montano

OTHERS: Bill Starks, Dept of Workforce Services
Jon Pierpont, Dept of Workforce Services
Bradley Salmond, Dept of Workforce Services
Kris Springer, Dept of Workforce Services
Jody McMillan, Dept of Workforce Services
Ally Isom, Department of Workforce Services EDO
Melissa Smith, Community Action Partnership of Utah
Jim Wilson, Legislative Research and General Counsel
Karen Silver, Salt Lake Community Action Program
Tony Semerad, *Salt Lake Tribune*
John Reidhead, Department of Administrative Services

Welcome

Kristen Cox welcomed those in attendance. James Olsen was acknowledged for his many years of public service.

Approval of Minutes

Bill Starks called for a motion on the July 21, 2010 minutes.

Motion: Dee Rowland made a motion that the minutes be approved as written. Jim Judd seconded the motion and the motion was approved by unanimous vote.

HB 180 Debt Collection Data Match (moved up the agenda)

HB 180, sponsored by Rep. Clark, would require Unemployment Insurance to share unemployment wage data and employer information as well as the New Hire Registry Information with the State Office of Debt Collection for collection of state debts outside of Workforce Services. If passed, HB 180 would require legislative action and execution of an MOU with the State Office of Debt Collection to bring about its mandate. Bill seeks the input of the Council on HB 180 as the Council should consider impact on employers. Could this legislation create unwillingness among employers to report requested wages? A stipulation included in HB 180 is that this information would only go to employees of the State Office of Debt Collection and not to the third party collectors contracted by the entity. Other MOUs for data sharing are in effect, notably the State Office of Higher Education which accesses information for the purpose of collecting on student loans. At this point in time, Unemployment Insurance and its legal counsel do not have concerns with HB180. He brings it to this forum to sort out any employers' concerns.

Bill would like to take a vote in Council and bring that to a legislative committee hearing later today. When asked if UI is performing any debt collection functions for other state entities at this time, Bill clarified that UI does not. It did minimally at one time, but those activities were inconsistent with federal mandates. John Reidhead clarified types of debts to be collected (ie. court fines, wage claims, as well as other areas where state has provided services without restitution). In addressing concerns about employer participation, Bill pointed out that several MOUs are in effect now which do not seem to have impacted compliance (specifically: ORS, State Tax Commission Labor Commission Department of Commerce, State Office of Higher Education). Discussion also addressed security concerns over data sharing and possible breach. This is a very sensitive issue to employers post "The List". Confidentiality is addressed in standard MOUs and includes UIs ability to go in and audit shared records. Standard MOUs also allow flexibility to withdraw from agreement if there are any security concerns. The source of information is not disclosed to debtors in the collection process at the State Office of Debt Collection.

Motion: Thomas Bingham made motion to approve data sharing with State Office of Debt Collection as detailed in HB 180 with stipulation there be an MOU on a 5 year term with an option for renewal. James Judd seconded the motion and the motion was approved unanimously. The Council's approval of HB180 will be forwarded to the legislative committee meeting today.

Update on UI Trends, EUC, and Tax Rates

UI Benefits are running 35% less continued claims from last year, consistent with the previously shared projections despite an unexpected spike in claims at the beginning of the year. UI has paid

out a total of \$680 million in EUC benefits and \$1.1 billion in state benefits over the last 3 years. Utah's unemployment rate is at 7.5% and continues to pay up to a total maximum of 73 weeks per claim, including the possible 47 weeks of EUC payments.

Update on Solvency of UI Trust Fund (Refer to document labeled UI Briefing)

There is good news in Trust Fund Solvency since the last time the Council met. The latest projections show there is currently about \$290 million in UI Trust Fund. The latest projection forecasts a drop to \$247 million in June, 2011, and then a drop to \$21 million by June, 2014. The projections starting for fiscal year 2014 show revenues will be greater than benefits paid yearly. The Trust Fund should begin rebuilding at that point, assuming no double-dip in the recession. The tax rates went up significantly this year. The reserve factor went up from 1 to 1.45, and the social factor rose from 0.2 to 0.4. Some employers also incurred significant increase in benefits costs. As a result, the number of employers at the maximum rate went up by 400%. Previously, 440 employers were at the maximum rate. Currently, UI has 1,700 employers paying at the highest rate. The department expects this could rise to 3000 employers at the maximum rate by next year. Utah has second highest maximum UI tax rate in nation, surpassed only by Minnesota. Most states do not have nearly as large a spread between minimum and maximum rates as Utah. (For rates, please refer to legislative brief dated 2/1/11).

Employment Security Act Amendments

Bill and Kristen met with the Governor in reference to UI tax rates and the possibility of lowering the maximum rate. He is supportive of potentially making amendments to drop the upper end of rate. The Governor suggested the flexibility of creating a cap through statute but creating flexibility in application through rule. He encouraged Bill and Kristen to work with the Advisory Council to develop a proposal for next year's legislative session.

The change in rate could cost the Trust Fund about \$8 million dollars. The benefits costs associated would be \$7 million, and those would be pooled as part of social cost.

Since the legislative session is winding down, Bill suggested that it may be better to hold the proposal until next year's legislative session. It would be very difficult to find a sponsor this late in the legislative game. Waiting would allow time to watch the Trust Fund, study the issue more, and gather better numbers. The higher rates do encourage problems with misclassifications of workers and SUTA dumping. New businesses (specifically in construction, manufacturing) in Utah would also have this highest rate, potentially adversely impacting economic development in the State. There is also the risk of some businesses simply closing due to the financial burden. Dave Davis calculated that a drop from 9.4% to 7.4% in tax rate would equate to \$500 per employee/year cost shift. A drop to 7.4% would still leave Utah as the fifth or sixth highest maximum rate in the nation.

Sen. Niederhauser was approached as a sponsor. He preferred to have a House rep. take the lead and he would serve as a co-sponsor. Sen. Niederhauser requested clarification on how a drop in tax rate would not negatively impact the solvency of the Trust Fund. It would have a short term negative impact on the Trust Fund, but not over the long haul as it switches responsibility through transfer to social cost. Every tenth percent of an increase in social cost translates into a \$17 million increase for the Trust Fund. There will be complaints from employers, especially those at the lowest rate as they will be incurring the higher social cost generated by different industries.

Questions asked as to percent of employers paying between 7.5% and 9.4%. Bill answered about 2,600 employers or 3.8% are in that category.

Bill asked if the Council prefers to wait until next legislative session and address the issue this summer, or pursue in this legislative session. There is benefit in being able to take time to see what range of rates could be created in rule.

Motion: Tom Bingham made motion to pursue this legislative session and to make retroactive to January 1, 2011.

Currently the 9% is in statute plus the applicable social contribution rate, and not less than 1.1% for new employers. Proposed language would revise downward to “7% plus the applicable social contribution rate....” (See proposed changes in brief.)

Motion: Tom Bingham made second motion for the Council to adopt the statutory changes as detailed by Bill in red in his brief. Dee Rowland Seconded motion and motion was passed unanimously.

Bill will notify the Governor’s Office of Council’s action and will keep Council updated.

Federal Extended Benefits Option

The Council may be aware of recent articles describing the Governor and legislative leadership as not supportive of the federal extended benefits going forward. As part of the EUC extension last December, there was a provision for extended benefits, to be reimbursed 100% in most circumstances, of an additional 13 weeks (to a total of 86 weeks) of benefits. The EB Program could inject \$60-\$160 million in the Utah economy if implemented. Once you trigger on to Extended Benefits, you’re on for 13 weeks and need to stay on regardless if the federal government is subsidizing or not. Once you trigger off, you’re off for 13 weeks. This program gives an optional Total Unemployment Rate trigger of 6.5%. We are a long way away from triggering on EB with our mandated Insured Unemployment Rate trigger. This option would have allowed us to implement retroactively as early as 1/24/10. The federal government traditionally shares the cost for this program with most contributory employers 50% each, except for government entities, which are reimbursable employers whom assume 100% of the cost. Last year, the Council was split on going forward with this option. Bill has brought it to the Council for a discussion and vote.

Melissa Smith has a sponsor for this bill. Her concern is that reimbursable employers have opted into their tax arrangement which in most economic climates is beneficial for them. Bill noted many townships are contributory employers and would continue to pay on a 50% split. Melissa expressed concern that Utah added 1,500 jobs in December and 101,000 Utahans remained unemployed in December. In just 3 weeks in December, with claimants exhausting final benefits at rate of 424 per week, the benefits of those new jobs created were wiped out. People need the income to avert foreclosure, to pay bills, and to purchase items in their community. There is also a potential for income tax revenue from this extended benefit program. It seems the resistance to the program protects 3% of the employers, at the expense of the employees who had worked for the other 97%. Dee Rowland agreed that the program would provide obvious benefit to the economy. Bill noted that the potential of being eligible to receive up to 86 weeks of unemployment may dissuade some from looking for work. The REA program shows that 28% not bothering to meet with an employment counselor and the Back to Work reports low participation levels in work program opportunities. Eligibility Reviews show that 25% are not complying with the mandate to do 4 work searches a week. Some claimants resist even when it has meant losing benefits. Caseloads for public benefits are going up. Ten states have chosen not to pursue EB.

It was mentioned the Utah legislature expresses a two-fold concern; the federal government does not have the money to spend and the burden that will be placed on local government entities. This legislature is highly unlikely to pass EB if the Council wanted to take it on as an issue.

If the Council wants to take a vote on it –Melissa can use it during hearings on her bill. This is not a bill that would come from the department or the Council.

Motion: Dee Rowland made motion to support adoption of the TUR EB trigger and the effective date, as explained by Bill. No second needed.

4 votes favor

4 votes against

1 abstain

Note –there would be about 24,000 individuals who had exhausted their benefits from 1/24/10 to 1/1/11. Of those, it is unknown how many had gone back to work.

Adjourn

The meeting adjourned at 1:45 pm.